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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,142	01/03/2002	Joseph M. Kelly	056516.098181	9378
29540	7590	04/15/2005	EXAMINER	
PITNEY HARDIN LLP			HRUSKOCI, PETER A	
7 TIMES SQUARE			ART UNIT	
NEW YORK, NY 10036-7311			PAPER NUMBER	

1724

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,142

Applicant(s)

KELLY ET AL.

Examiner

Peter A. Hruskoci

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004 and 23 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLaughlin et al. in view of Kupczik et al.. McLaughlin et al. disclose (see col. 3 line 46 through col. 4 line 62) a method of treating dredged material substantially as claimed. The claims differ from McLaughlin et al. by reciting a step for subjecting the dredged material to an oxidation process. Kupczik et al. disclose (see col. 3 line 7 through col. 4 line 54) that it is known in the art to add oxidants to a contaminated sediment or silt to aid in oxidizing organic compounds in the sediment or silt. It would have been obvious to one skilled in the art to modify the method of McLaughlin et al. by utilizing the recited oxidation process in view of the teachings of Kupczik et al., to aid in oxidizing organic compounds in the dredged material. The specific oxidizing agent utilized would have been an obvious matter of process optimization to one skilled in the art, depending on the specific dredged material treated and results desired, absent a sufficient showing of unexpected results.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLaughlin et al. in view of Kupczik et al. as above, and further in view of Baize. The claim differs from the references as applied above by reciting that the flocculating agent is a polyelectrolyte. Baize disclose (see col. 3 line 9 through col. 4 line 25) that it is known in the art to add a polymer flocculant to a dredged material in combination with oxidizing agents to aid in recovering sludge from the dredged material. It would have been obvious to one skilled in the art to modify the

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references as applied above by adding a polyelectrolyte flocculating agent in view of the teachings of Baize, to aid in recovering sludge from the dredged material.

Applicants argue that the present invention does not require either physical dissociation of organic contaminants from the dredge material or transfer of organic contaminants into the aqueous phase as in Kupczik et al. It is submitted that this dissociation or transfer is not excluded from the instant claims. Furthermore, it would appear that the addition of additive package 40 to the mixer 50 utilized in the present invention would produce the above noted dissociation and transfer.

Applicants argue that neither does McLaughlin et al. or the present invention require the use of an energy source to physically dissociate the organic contaminants from the dredged material prior to oxidation of the contaminants and dissolution of the oxidated contaminants into the surrounding water as in Kupczik et al. It is submitted that the use of an energy source as disclosed in Kupczik et al. is not excluded from the instant claims.

Applicants allege that the combination of the McLaughlin et al. and Kupczik et al. references is improper because the nature of the problem to be solved does not suggest the desirability of modifying McLaughlin. It is submitted the problem of neutralization of hazardous organics contained within large quantities of dredged material and subsequent formation of a specific product is not recited in the instant claims. Furthermore, applicants have not supplied sufficient factual evidence to support the above allegation.

Applicant's arguments concerning Baize are based on the propriety of the combination of McLaughlin et al. and Kupczik et al.. This combination is deemed properly applied for reasons stated above.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 6:30AM-4:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Peter A. Hruskoci
Primary Examiner
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4/14/05